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RIGHT TO DEVELOPMENT

Report of the open-ended Working Group on the Right to Development on its third session (Geneva, 25 February-8 March 2002)

Chairperson-Rapporteur: Mr. Mohamed-Salah Dembri (Algeria)

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Introduction

1. At its 46th plenary meeting, on 30 July 1998, the Economic and Social Council, in its decision 1998/269, taking note of Commission on Human Rights resolution 1998/72 of 22 April 1998, endorsed the Commission's recommendation, in view of the urgent need to make further progress towards the realization of the right to development as elaborated in the Declaration on the Right to Development (General Assembly resolution 41/128, annex), to establish a follow-up mechanism, initially for a period of three years.

2. The mechanism would consist of the establishment of an open-ended working group to meet for a period of five working days each year, after the fifty-fifth and fifty-sixth sessions of the Commission on Human Rights, with a mandate:

(a) To monitor and review progress made in the promotion and implementation of the right to development as elaborated in the Declaration on the Right to Development, at the national and international levels, providing recommendations thereon and further analysing obstacles to its full enjoyment, focusing each year on specific commitments in the Declaration;

(b) To review reports and any other information submitted by States, United Nations agencies, other relevant international organizations and non-governmental organizations on the relationship between their activities and the right to development;

(c) To present for the consideration of the Commission on Human Rights a sessional report on its deliberations, including advice to the Office of the United Nations High Commissioner for Human Rights (OHCHR) with regard to the implementation of the right to development, and suggesting possible programmes of technical assistance at the request of interested countries with the aim of promoting the implementation of the right to development.

3. The mechanism would also include the appointment by the Chairman of the Commission on Human Rights of an independent expert with high competence in the field of the right to development, with a mandate to present to the working group at each of its sessions a study on the current state of progress in the implementation of the right to development as a basis for a focused discussion, taking into account, inter alia, the deliberations and suggestions of the Working Group.

4. H.E. Ambassador Mohamed-Salah Dembri (Algeria) was unanimously elected to the Chair of the Working Group in February 2000. The Working Group met from 18 to 22 September 2000 and from 28 January to 1 February 2001. The Working Group should have met for one week in December 2001 and also in February 2001 for its third and fourth sessions, but instead those sessions were combined in one session held from 25 February to 8 March 2002.

5. In its resolution 2001/9, the Commission on Human Rights requested to the Economic and Social Council to extend the mandate of the Working Group for a further year.

6. The present report is submitted to the Commission on behalf of the Chairperson-Rapporteur. The draft report was circulated to the participants at the Working Group as document E/CN.4/2002/WG.18/CRP.5. The Chairperson gave the participants 10 days to make comments on the report. Those comments have either been incorporated in the body of the text or included in an annex. While the text of annex II was negotiated by States, the present report is the report of the Chairperson-Rapporteur.

I. ORGANIZATION OF THE SESSION

A. Opening of the session and election of officers

7. The third session of the open-ended Working Group on the Right to Development was opened by the Chairperson-Rapporteur, H.E. Ambassador Dembri, in the presence of the United Nations High Commissioner for Human Rights, Ms. Mary Robinson.

8. The Working Group commenced with a presentation by the High Commissioner. The High Commissioner's purpose in addressing the Working Group was to encourage it in its work and to convey her deep conviction that the Group's work was of central importance. The High Commissioner noted that the right to development had too long been a prisoner to political controversy which could not continue if the Working Group was to succeed. The High Commissioner identified the New Partnership for Africa's Development (NEPAD) as an illustration of a road map for human rights and development in all of Africa and a possible focus for the Working Group. The High Commissioner also referred to the appeals for ethical globalization that she had made at the Global Social Forum in Porto Alegre, Brazil and at the World Economic Forum in New York. Ethical globalization encouraged international cooperation - one of the elements of the right to development - that was not restricted only to international development assistance. The High Commissioner referred to the activities of her Office described in her report to the Commission (E/CN.4/2002/27) and noted further activities, including her visit in December 2001 to the World Bank as well as the seminar on "Human rights and the environment" held in January 2002. The High Commissioner also called for core rights-based indicators on civil, cultural, economic, political and social development and encouraged the Working Group to consider the best mechanism for elaborating the obligations attached to the right to development. The High Commissioner finally called on the Working Group to move forward on the right to development through consensus and thus to confine its work to areas that could be agreed upon with conviction.

9. In his opening remarks the Chairperson-Rapporteur noted that the Working Group was continuing a difficult debate on the right to development at a time of world economic crisis and in the aftermath of the attacks on the United States in September 2001. He remarked that the Working Group was taking place in the context of recent world conferences including the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban, the Fourth WTO Ministerial Conference in Doha, and the upcoming International Conference on Financing for Development in Monterrey. These conferences set priorities which the Working Group could take into account. The Chairperson-Rapporteur reflected on the programme of work for the following two weeks. He noted that the structure of

the programme of work came directly from Commission resolution 2001/9 which underscored the importance of promoting both the national and international dimensions of the right to development. Finally, the Chairperson-Rapporteur encouraged the Working Group to work towards convergence and solidarity rather than to become blocked by confrontation.

10. The independent expert followed the Chairperson-Rapporteur with a description of his current work on the right to development. He highlighted that in his work, he had always been guided by a simple objective, namely to consider the right to development in a manner that is realizable and able to be implemented immediately. He noted the Commission's request in resolution 2001/9 to clarify further the proposed "development compact" in consultation with concerned organizations. The independent expert also referred to the Commission's request to him, also in resolution 2001/9, to consider and evaluate the impact of international economic and financial issues on the enjoyment of human rights. Given that his mandate had been extended until 2004, the independent expert had decided to focus his report (E/CN.4/2002/WG.18/2) on elaborating the development compact in order to assist the Working Group to make concrete recommendations. With regard to his future work, the independent expert pointed out that he intended to undertake the impact study requested of him by the Commission. In that study, he intended to illustrate how globalization had tremendous potential for expanding the welfare and development of all developing countries.

11. Regional groups then made presentations. The representative of one group regretted the fact that the Working Group was meeting so close to the fifty-eighth session of the Commission on Human Rights and several groups regretted the fact that the impact study on international economic and financial issues was not available. One regional group expressed its solidarity with and commitment to a new partnership between developed and developing countries with respect to human rights, democratic principles, the rule of law and sound management of public affairs, thereby expressing its support for NEPAD. Regional groups underlined the importance of the International Conference on Financing for Development and other world conferences relevant to the right to development. Regional groups also expressed their appreciation for the work of the independent expert. Rather than focusing on national dimensions of the right to development, one representative emphasized its international dimensions. One regional group noted the need for the Working Group to focus on obstacles to the enjoyment of the right to development, including debt, structural adjustment, globalization, HIV/AIDS, poverty and their impact on the enjoyment of human rights.

B. Attendance

12. Representatives of the following States members of the Commission on Human Rights attended the meetings of the Working Group: Algeria, Argentina, Austria, Bahrain, Belgium, Brazil, Canada, Chile, China, Costa Rica, Cuba, Democratic Republic of the Congo, Ecuador, France, Germany, Guatemala, India, Indonesia, Italy, Japan, Kenya, Libyan Arab Jamahiriya, Malaysia, Mexico, Nigeria, Pakistan, Peru, Poland, Portugal, Republic of Korea, Russian Federation, Saudi Arabia, Sierra Leone, South Africa, Spain, Sudan, Sweden, Thailand, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela, Viet Nam and Zambia.

13. Representatives of the following States also attended: Andorra, Australia, Bangladesh, Bhutan, Bolivia, Bulgaria, Colombia, Democratic People's Republic of Korea, Denmark, Egypt, Estonia, Ethiopia, Finland, Greece, Haiti, Iran (Islamic Republic of), Iraq, Jordan, Kuwait, Latvia, Madagascar, Mongolia, Morocco, Myanmar, Nepal, Netherlands, New Zealand, Norway, Panama, Paraguay, Philippines, Romania, Slovakia, Slovenia, Sri Lanka, Tunisia, Turkey, Yemen and Yugoslavia.

14. The Holy See and Switzerland were also represented.

15. The following United Nations bodies and specialized agencies were represented: United Nations Conference on Trade and Development (UNCTAD), United Nations Development Programme (UNDP), United Nations Population Fund (UNFPA), Joint United Nations Programme on HIV/AIDS (UNAIDS), International Labour Office (ILO), Food and Agriculture Organization of the United Nations (FAO), United Nations Educational, Scientific and Cultural Organization (UNESCO), World Health Organization (WHO), World Bank and International Monetary Fund (IMF).

16. The following intergovernmental organizations were represented: European Commission, Organization of African Unity (OAU) and League of Arab States.

17. The following non-governmental organizations in consultative status with the Economic and Social Council were represented at the meetings of the Working Group:

General status

Europe-Third World Centre, Franciscans International (FI), International Confederation of Free Trade Unions, International Council of Women, International Social Security Association.

Special status

African Commission of Health and Human Rights Promoters, Azerbaijan Women and Development Centre, Interfaith International, International Association of Jurists, International Federation of University Women, International Service for Human Rights, International Young Catholic Students, World Union of Catholic Women's Organizations.

Roster

Association of World Citizens.

The following other NGOs were also represented: African Union Youth Forum, Civil Power Africa, Comité international pour le respect et l'application de la Charte africaine des droits de l'homme et des peuples, Commission amazighe internationale pour le developpement et les droits de l'homme, Danish United Nations Association, Deco-Mousseau, Espace afrique international, Rights and Humanity.

C. Documentation

18. Annex I contains a list of the texts and documents before the Working Group at its third session.

D. Organization of work

19. At its first meeting, on 25 February 2002, the Working Group adopted its agenda, as contained in document E/CN.4/2002/WG.18/1, and adopted the programme of work which appears as document E/CN.4/2002/WG.18/4.

II. DECLARATIONS OF HEADS/REPRESENTATIVES OF UNITED NATIONS AND OTHER AGENCIES IN LIGHT OF DEVELOPMENTS AT BOTH NATIONAL AND INTERNATIONAL LEVELS RELEVANT TO THE RIGHT TO DEVELOPMENT

20. The representative of FAO emphasized the relationship between undernourishment, poverty, the right to food and the right to development. The representative noted that the right to food could provide a catalytic role in implementing the right to development and emphasized the importance of people-centred development as a strategy for development. The representative referred to the 1996 World Food Summit and the follow-up in June 2002, identifying areas of cooperation between FAO, OHCHR and the Committee on Economic, Social and Cultural Rights, in particular in response to the World Food Summit's call to elaborate the right to food. After outlining some FAO activities in the field of technical cooperation, early warning systems to avoid emerging food crises, agricultural relief and disaster prevention, the representative emphasized two elements necessary to the implementation of the right to development. First, political will was essential if the 2015 Millennium Declaration Goals were to be met. Second, even where political will existed, resources had to be made available if concrete action is to be possible.

21. Next, the representative of the World Bank outlined some of its recent activities directly concerning the right to development, including the visit of the High Commissioner the previous December and her discussions with the Bank at that time, including on poverty and indigenous peoples. He referred to the work of the independent expert and suggested that more attention needed to be devoted to the instruments to implement the development compacts, including further work on the role of intergovernmental organizations, the market, the private sector and civil society, in particular the role of trade unions. The representative also underscored the role of the judiciary and the need to reform judicial systems as an element of the implementation of the right to development. He noted the work of the Bank on examining alternative governance structures as relevant to the right to development and also noted that poverty eradication was the most effective vehicle for realizing the right to development. In that regard, the Bank was examining ways to reach vulnerable groups more effectively. He emphasized the importance of macroeconomics and development, participation, accountability, non-discrimination, empowerment, sustainability and the development of a new social contract, but noted that the short-term implementation of these would be difficult.

22. The representative of the OAU spoke of the right to development as a priority for the African region, noting the need for genuine partnership in the implementation of the right. He also welcomed the High Commissioner's reference to NEPAD and encouraged the Working Group to examine this in its deliberations.

23. The representative of UNAIDS stated that HIV/AIDS had become a development crisis and that the realization of human rights and fundamental freedoms was essential to responding to that crisis. People living with HIV/AIDS were deprived of the rights to their economic, social, cultural and political development. Further, HIV affected all - the wealthy and the poor - which meant that those educated and skilled people who should be carrying development forward were also affected. In sub-Saharan Africa the problem was particularly grave with AIDS now the leading cause of death and with the life expectancy at 47 instead of the predicted 62 had there not been the epidemic. HIV affected the agricultural sector, and so affected food security and the enjoyment of the right to food. HIV/AIDS also affected economic activity, it decimated the workforce, consumed scarce resources and dislocated the poor even more. UNAIDS noted that HIV/AIDS placed new demands on resources for prevention, as well as care and treatment. In that context, the representative noted that the World Conference on Financing for Development would have to address the impact of HIV/AIDS on resource needs. Further, he noted that debt relief was important. He referred to the importance of international cooperation, including through the global fund for fighting HIV/AIDS, tuberculosis and malaria. Finally, he expressed appreciation for the collaboration with OHCHR which assisted UNAIDS in implementing a rights-based approach to address HIV/AIDS.

24. The representative of ILO recalled that the Decent Work Agenda of the ILO was indeed a development agenda. The Agenda took into account the features of the right to development, such as participation, international cooperation, the dignity of every human being and the interdependence of human rights and development. The ILO representative noted some of the activities of the ILO of relevance to the realization of the right to development. The first global report under the 1998 Declaration on Fundamental Rights and Principles at Work, "Your voice at work", was dedicated to freedom of association and the right to collective bargaining and the report had led to a strengthening of ILO activities in that area. The *World Employment Report 2001* was dedicated to the theme of life at work in the information economy and highlighted that the ability of information technology to reduce poverty and spur development would be determined by its impact on employment. The ILO had joined the international development community in supporting the development of the poverty reduction strategy papers (PRSP) process and, in consultation with the IMF and the World Bank, had selected five countries for an especially focused effort to demonstrate the effective role of the Decent Work Agenda. Finally, the ILO Working Party on the Social Dimensions of Globalization had created a World Commission on Social Dimensions of Globalization that was to submit a report on the social dimensions of globalization in 2003. The representative suggested that the Working Group and any follow-up mechanism might include the future report of the Commission in its work.

25. The representative of UNESCO underlined the importance of the right to development to that organization, in particular in relation to its poverty eradication programmes which, since 1999, had become a priority. UNESCO believed that it could contribute to eliminating the root causes of poverty through its programmes concerning natural resource management, access to

information and knowledge, and the promotion of human rights and preservation of cultural heritage. The three strategic areas in poverty eradication programmes until 2007 had been identified as: broadening PRSPs through the mainstreaming of culture and science; establishing linkages between PRSPs and sustainable development; and contributing to the establishment of an enabling framework to promote participatory approaches to poverty programmes. Education is central to the implementation of the right to development as well as to meeting the 2015 goal of halving extreme poverty. UNESCO enjoyed close cooperation with OHCHR and, as part of its reform programme, was looking at new ways to further mainstream human rights in the work of the organization, including through making research on economic, social and cultural rights a priority.

26. The IMF representative stated that the right to development process was different from the PRSP process - the internationally agreed process for dealing with poor countries - in that the PRSF did not explicitly integrate human rights, have binding commitments or sanctions, or carry obligations beyond the articles of the Fund. There was nothing, however, to prevent a country from integrating human rights in its papers, and countries could seek international support for the integration of human rights in the documents. The Fund conducted a biennial review of PRSPs and at its recent review in Washington there was no reference to human rights. The PRSP was an evolving process and the strategy was updated annually. On the question of rights and obligations, Fund members took on certain obligations and had certain rights. Obligations could be enforced by withholding lending, eviction from the Fund or by other means. The Fund itself could not violate its own obligations because there was daily surveillance by the Executive Board. The representative stated that the Fund was not bound by the human rights treaties. How then could the situation be changed? The Fund articles had been amended three times and a fourth was pending ratification. Human rights had never surfaced during any of these changes. The Board reviewed its activities every two years. The issue of human rights could be raised then.

27. The representative of the International Confederation of Free Trade Unions noted that the Chairperson's encouragement of organizations to participate in the Working Group was an important way to mobilize interest in the right to development; however, the Working Group should cease its former practices of political division. For example, the Working Group's deliberations might be relevant to the mid-term review of UNCTAD X. The representative noted that the members of international organizations were the same countries sitting in the Working Group and should therefore raise the right to development in other forums. The representative also noted that the trade union movement had a key role to play in the formulation of rights-based development policies. Finally, the representative encouraged the Conference on Financing for Development to take bolder initiatives on indebtedness as well as increasing finance for decent work and the promotion of fundamental labour standards.

28. The representative of the European Commission spoke on the interrelationship between trade and development and the implications for the Working Group. The representative informed the Working Group of its efforts to integrate trade into its cooperation programmes. It noted that multilateral trade liberalization had an important impact on economic growth and that increased market access was essential in the new round of trade negotiations. However, important imbalances existed and in many cases, developing countries were hampered by protectionism. The European Union had tried to improve this situation, especially for least

developed countries (LDCs). In the framework of the World Trade Organization (WTO), the Commission noted that substantial progress had been made in Doha on a wide range of issues of importance to developing countries. The European Commission noted that market access was not enough for economic growth. Trade liberalization in a broader sense was needed, supported by a domestic regulatory framework, multilateral rules, regional cooperation, capacity-building in domestic development programmes, and poverty reduction, amongst others. At the international level, participation was of critical importance in negotiation and other processes.

29. The representative of UNCTAD stated that it had been working for development for the last 37 years. It had worked to stabilize commodity prices on the world market, promoted commodity development projects in developing countries, and researched market access. UNCTAD was currently working on small and medium-sized enterprises, investment flows to developing countries, training in technology and capacity-building of individuals. Concerning the post-Doha agenda, it had drafted a document on supporting countries in their negotiations with WTO. UNCTAD produced three major reports each year on LDCs, trade and development, and the World Investment Report, which should be considered by the Working Group. UNCTAD noted a fruitful relationship with OHCHR, but stated that there was room for improved cooperation between human rights expertise on the one hand and trade, investment, technology and financial expertise on the other. UNCTAD's approach was not one of rights or law, but the Director-General had requested all directors to incorporate development and human rights in their work. The right to development and rights based approaches were constant reminders that the human person was the central subject of development.

III. CONSIDERATION OF CONCRETE ACTIONS TOWARDS REALIZATION OF THE RIGHT TO DEVELOPMENT AT THE INTERNATIONAL LEVEL

30. The Working Group considered the following sub-items at the present session: (a) assessment of the progress made in meeting the goals and objectives of internationally agreed development targets and commitments, including those of the Third United Nations Conference on the Least Developed Countries; (b) the objectives set by the Millennium Summit Declaration; and (c) international trade issues, access to technology, good governance and equity at the international level, the International Conference on Financing for Development (the Monterrey Consensus) and the debt burden. The Chairperson-Rapporteur recalled that the international community had committed to halving extreme poverty by the year 2015 and the Working Group might wish to keep this in sight during its discussions. He encouraged the Group not to draw back from already agreed principles, commitments and objectives but rather to look to the future.

31. Several participants referred to international cooperation as one of the principle means of implementing the right to development. Indeed, some delegations noted that that was what distinguished the right to development from human rights in development. Simultaneous actions to promote the right to development were needed at both national and international levels. According to some participants, international cooperation was not only an act of solidarity but also an obligation. While poverty eradication was one critical element of the right to development, other elements also needed to be looked at. One participant stated that there was a

need to look at the international economic order to do justice to the question of international cooperation. Another participant stated that there was a greater need for coordination between donors, international and regional organizations and commissions as well as banks for international cooperation to be effective in promoting the right to development. The independent expert emphasized the centrality of human rights norms and standards to international cooperation, noting that no international organization, including the World Bank and the IMF, were exempt from the responsibility to respect human rights.

32. Participants referred to United Nations world conferences, their goals and programmes of action as being relevant to the international cooperation dimensions of the right to development. Some participants noted that despite the North-South dialogue and several regional initiatives, 16 years had elapsed since the adoption of the Declaration in 1986 and poor countries were still looking for a glimmer of hope that the right to development would be recognized. The conferences and summits of the 1990s had resulted in many good intentions; however, not a great deal had been achieved in practical terms. Some participants noted that the final documents of the Millennium Summit and the Third United Nations Conference on the Least Developed Countries had provided indisputable obligations vis-à-vis the right to development and contained a commitment to spare no effort to combat poverty, promote the right to development, establish an equitable multilateral trading system, and assist with the debt burden. Some participants suggested that the Working Group should use these commitments as a point of departure. One participant noted that its development strategies was based on meeting the Millennium Declaration Goals through the setting of priorities that included boosting the international economy, promoting fair trade, reducing debt and realizing human rights. Another participant, on behalf of several participants, emphasized that the State's primary responsibility for its own economic and social development was one of the core ideas in relation to the right to development. The independent expert argued that human rights should indeed be mainstreamed through the implementation of the Millennium Declaration Goals.

33. A participant noted that the International Conference on Financing for Development represented a means for following up the Millennium Summit and the LDC Conference and achieving the internationally agreed development goals. The Monterrey conference would also pave the way for a positive outcome of the United Nations Conference on Sustainable Development to be held Johannesburg. Some participants again recalled that each State had primary responsibility for its own economic and social development, noting that in the preparatory process for the Monterrey conference, the fight against corruption had been identified as a priority since it diverted resources away from poverty eradication and sustainable development. At the same time, one participant stated that national development efforts needed to be supported by the international community through additional development assistance, timely disbursement of development aid, and a sustained effort to achieve the United Nations official development assistance (ODA) target of 0.7 per cent of Gross National Product and 0.15-0.20 per cent for LDCs. Another participant noted that the Monterrey conference would provide the means for developing new mechanisms to finance development that ensured a more just international environment conducive to the enjoyment of the right to development. One NGO representative noted that the Monterrey Consensus made firm commitments on only eight points and used less firm language in many more. If Monterrey was to be the place where the twenty-first century as the century for development was to start, it was not a good sign that human rights and development had been left out of the text.

34. Similarly, some participants pointed to the commitment made by the international community's commitment at Doha to maximize the benefits of trade and globalization as important contributions to the upcoming Monterrey conference, as well as to the realization of the right to development. One participant, a representative to the WTO, made a presentation on the results of the Doha Ministerial Conference. Commitments had been made to trade and development, including increased technical cooperation, capacity-building and special and differential treatment, in particular for LDCs. Since the Ministerial Conference there had been several follow-up initiatives including the establishment of a Global Trust Fund that was awaiting pledges later in March, as well as the initiation of discussions on trade-related assistance for developing countries and LDCs. Several delegations noted however that as the past record of implementing special and differential treatment under WTO rules had fallen short of expectations, the implementation of commitments made at Doha would be important. Another participant noted that it would be important to bring the philosophy of human rights to trade, for example by examining how to rebalance the rights of technology holders with those of technology users in intellectual property agreements. One participant recognized that bridging the digital divide was important for development, and that information and communications technologies (ICTs) needed to be made available to all. Corporate governance, including wider use of international accountancy standards, and the Guidelines for Multinational Enterprises of the Organisation of Economic Cooperation for Development (OECD) should be promoted.

35. The World Bank representative noted that governance and public sector reform was important to the right to development. He explained the nature of the interim PRSPs which led to more comprehensive papers and stated that some 40 papers had been finished. The United Nations system had agreed to pursue PRSPs and to harmonize them with the United Nations Development Assistance Framework (UNDAF) and common country assessment (CCA) process. The costs of implementing the Millennium Declaration Goals had been mapped and would be discussed in Monterrey. The Working Group could contribute a coherent human rights view to the implementation of these goals. One delegation recalled the report of the independent expert on structural adjustment policies which examined eight interim PRSPs and concluded that macroeconomic objectives were incompatible with poverty reduction efforts. The World Bank representative responded that interim PRSPs were merely outlines and did not have the comprehensive view of full PRSPs. The Chairperson-Rapporteur suggested that the report of the Special Rapporteur on the right to food might also be useful to the Working Group.

36. Participants also raised the issue of concerted action on debt as a means of international cooperation to realize the right to development. Several participants noted that developing countries could not develop if they did not have financial resources. Further, without public financial resources, they could not attract much-needed private financial resources. Further, some participants noted that steps needed to be taken at the international level to ensure that the conditions which had led to international debt did not recur. Debt relief or forgiveness would not solve the long-term problem of debt. One participant stated that debt affected both the right to development and economic, social and cultural rights, as debt repayments consumed export income that could otherwise be used for development purposes; even debt relief required repayment schemes that used important resources. Adjustment programmes linked to debt relief also encourage particular policies such as movement away from inheritance taxes to value added

taxes which moved the burden from the rich to the general population. One delegation noted that the Heavily Indebted Poor Country (HIPC) initiative was only one part of the solution to the debt problem - other factors including improving the terms of trade, were also important. The World Bank representative warned against oversimplification of the debt issue, pointing to the fact that a total cancellation of debt would mean a reduction in the availability of credit resources for developing countries which could hamper development efforts in other parts of the world. The representative also agreed that if market access to developing countries was not increased, debt would continue to be incurred. The representative also noted that World Bank profits were channelled back to developing countries. One non-governmental representative believed that the IMF was omnipresent in about half the developing countries and had effectively replaced Governments as the main actor on many financial questions. He argued that debt cancellation was a matter of political will, not a technical problem.

37. Some participants referred to unilateral coercive measures such as blocking market access and access to technology, including medicines, which were needed for development. One participant referred to Commission resolution 2000/26 that stated that unilateral coercive measures, including sanctions, were an obstacle to the enjoyment of the right to development and encouraged the Working Group to give due attention to this in its deliberations.

38. One participant stated that globalization was not global and that integration of countries in the international system was selective. Another participant, on behalf of several participants, expressed the belief that this view was an oversimplification of the concept of globalization and was linked to the international dimension of the right to development. Globalization needed an ethical framework and principles of participation, accountability and equality needed to be incorporated into the debate on globalization and international cooperation and trade. Others suggested that in order to realize the right to development an equitable political and economic order was necessary, which would allow LDCs to participate in international decision-making. Further, reform of the international trading system, debt reduction, halting the decline in ODA and relaxation of restrictions on high technology exports from developed countries were necessary. Trade, economic and financial policies should achieve and benefit development. The Chairperson-Rapporteur referred to the study on globalization and its impact on the full enjoyment of human rights being undertaken by two Special Rapporteurs of the Sub-Commission on the Promotion and Protection of Human Rights and stated that globalization must have a human face. One participant queried how international cooperation, important in the age of globalization, could be framed in the language of human rights obligations. The same participant noted that in the discussion on the right to development, it was not fair to speak about new resource allocations especially since managed and well-thought-out domestic resource reallocations could play as vital a role in improving human development indicators as more external aid. Another participant questioned how the right to development could address issues such as market access and special and differential treatment for developing countries.

39. The independent expert stated that the discussions in the Working Group on development, finance or trade would not be the same as in the WTO or international financial institutions, but that the right to development provided an opportunity to look at development from a human rights perspective. He agreed that poverty eradication was a method of fulfilling the right to development, but was not the human right to development. The human rights approach based itself on the principles of equity, non-discrimination, participation,

accountability, transparency and good governance. When talking about rights, the issue of obligations arose and partners should conclude agreements with monitoring and arbitration mechanisms. There was no assurance of arbitration in the PRSP process. This was important in international economic arrangements and the outcome of the Millennium Summit and the Conference on Financing for Development must be looked at from a human rights perspective. The international community must be willing to support programmes worked out in the context of those pledges. Reciprocity was at the heart of international cooperation.

40. In response to a question, the independent expert noted that international cooperation was an obligation of the international community by virtue of having accepted the right to development. He agreed that States had the primary responsibility for development with the help of the international community. However, in the age of globalization, many States were circumscribed by international processes, such as debt, which affected them. Therefore, the international dimension was very important for fulfilling the obligation of the international community to help States. International cooperation was also an important factor in assisting States to promote and protect human rights at the national level.

41. The Chair concluded the session by noting that international cooperation relied on participation, equitable distribution of resources and commitment from the international community to the implementation of the right to development. He also noted the over-riding concern to invest in human beings through promoting health, decent work, reducing poverty, improving access to markets and technology and by paying greater attention to the social dimensions of globalization.

IV. PRESENTATION BY THE INDEPENDENT EXPERT OF HIS FOURTH REPORT

42. The independent expert presented his fourth report and its addendum to the Working Group. The addendum set out meetings held by the independent expert in November 2001 with the Organisation for Economic Cooperation and Development (OECD), the Governments of the United Kingdom and the United States and the Netherlands, and the World Bank and the IMF. The independent expert said that there was nothing in his reports that departed from the basic framework of the Declaration on the Right to Development, the elements of which he had tried to interpret in a manner that helped implementation of the Declaration on the basis of consensus. The independent expert explained his view that if all the rights in the two Covenants were implemented comprehensively, then implementation would be more effective than if rights were implemented individually. The right to development required a process of participation, transparency and accountability. Decision-making should be on an equitable basis and the results of development should be distributed fairly.

43. The implementation of human rights in an integral manner meant accepting that some rights might need to be prioritized in accordance with national development planning. However, the independent expert argued that, in focusing on certain rights, it was fundamental that no human right should be violated if the right to development was to be implemented correctly. While that might sound simple, it could be complicated as it meant, for example, that there should be no substantial increases in unemployment or income disparity as a result of

development programmes. The independent expert referred to his missions to East Asia in 2001, noting that the policies of Governments and international financial institutions had increased deprivation in that region enormously. That was not consistent with respect for the right to development.

44. Concerning the national and international dimensions of the right to development, the independent expert referred to article 3 of the Declaration, which provided that States have the right and duty to formulate appropriate policies for development. There was no State right to development. However, there was an obligation to take multilateral actions to ensure the formulation of development policies that were conducive to the enjoyment of the right to development.

45. Finally, the independent expert introduced his notion of a development compact for the implementation of the right to development. This involved country-owned development programmes that would be financed by donor countries through a callable fund. The fund would be managed by a support group made up of relevant international organizations. However, no funds would be called upon until the support group, together with the country, had reviewed the programme. The target figure for the fund would be $50 billion, an amount based on the figure anticipated for the implementation of the Millenium Declaration goals. The support group would be led by the OECD Development Assistance Committee (DAC), although the independent expert noted that other models could and should be proposed. The independent expert said that there would be a need for a monitoring mechanism for the development compacts. As a first step in elaborating the development compacts, he suggested that an expert working group should be convened.

46. The Chairperson-Rapporteur thanked the independent expert for his intervention, noting that his fourth report was a conceptual document that should lead towards more contractual forms of commitment, which could eventually include standard-setting. The Chairperson-Rapporteur encouraged further discussion on the development compacts, as well as discussion of other approaches and models.

47. One participant gave a practical example of a development agreement between his country and a donor country as an illustration of some of the issues raised by the independent expert's development compacts. The partnership was based on a memorandum of understanding (MOU) which set as its objectives unity and national reconciliation, conflict resolution, good governance, poverty eradication, micro-economic stability and the enhancement of human resources and included a commitment to the national human rights institution. As part of the MOU, the donor country provided substantial financial assistance, including to the national budget, as well as technical assistance to relevant ministries such as the ministries of finance and education. The project included national evaluation undertaken annually by independent experts so that both the donor and recipient country could see the extent to which the project had succeeded. The participant urged the Working Group to use it as a model for its discussion of the development compacts.

48. Participants expressed appreciation of the work of the independent expert and some participants highlighted areas of interest. One participant expressed agreement with the independent expert's emphasis on: the role of the State as the primary duty bearer for the right

to development; the important role of civil society in implementing the right to development; and the emphasis on poverty eradication and meeting the Millenium Development Goals. Another participant considered that the international community had a shared responsibility to remove obstacles to the realization of the right to development.

49. Another participant welcomed the independent expert's focus on the right to development requiring a process of participation, transparency and accountability and the requirement for decision-making to be undertaken on an equitable basis and the results of development to be distributed fairly. The participant emphasized, however, the primary importance of national responsibility for development, stating that international cooperation was relevant only in the second degree. Several participants noted that the focus on three rights by the independent expert raised problems with respect to the indivisibility of human rights. Several participants queried the independent expert's notion of the right to the development being a right to a particular process of development. One participant said that the report was theoretical and felt that more practical information on international cooperation for development would be helpful.

50. One non-governmental representative urged the independent expert to view the right to development as an impetus for institutional development rather than a basis for the introduction of new institutions. Another participant stated that indicators and benchmarks could be useful in designing and implementing development programmes. The non-governmental representative argued that a sub-working group was needed to discuss the development compact. Another non-governmental representative underlined the importance of the right to development as a means of achieving human solidarity through partnership and sharing. Another non-governmental representative stated that the right to development was not a right to a process and said that the independent expert had overstepped his mandate in saying that it was. That non-governmental representative also objected to the OECD being the coordinator of the independent expert's proposed support group, on account of its exclusive membership. The representative of the IMF stated that the Fund could not see how the obligations connected with the development compacts would be enforced.

51. Both governmental and non-governmental participants made suggestions for the further elaboration of the development compacts. For example:

(a) The independent expert should elaborate the development compact, bearing in mind existing programmes such as HIPC and NEPAD, the Comprehensive Development Framework (CDF) and PRSPs;

(b) The independent expert could give more detailed consideration to the Millenium Declaration Goals, as well as the International Conference on Financing for Development and the Johannesburg World Summit on Sustainable Development;

(c) While States have the primary role in promoting the right to development, are obligations also assigned to civil society, the private sector and so on?

(d) If international cooperation carried with it obligations, are those obligations also imposed on South-South cooperation?

(e) Is it useful to refer to obligations in the international context, when it is really partnerships that are being encouraged?

(f) The independent expert could examine the relationship between the development compact and the World Bank consultative groups;

(g) The independent expert could consider ways in which the right to development could be promoted through existing processes, including through integrating human rights in the PRSP process;

(h) The independent expert was encouraged to undertake a study of one country to elaborate the practical implications of the development compact;

(i) What would be the added value of development compacts when funds for development already existed in other United Nations and the Bretton Woods frameworks?

(j) The UNDP round tables might be a more appropriate leader for the support group rather than the OECD Development Assistance Committee (DAC);

(k) The independent expert might undertake consultations with the European Commission in order to further elaborate the development compacts;

(l) The independent expert might examine more closely how economic growth could ensure that there was no increase in disparity, for example, of marginalized groups;

(m) The voluntary nature of the development compact raised questions as to whether the right to development would be respected in countries that did not want to enter into a compact;

(n) How would the support group reach consensus on burden-sharing amongst its members? There could be reticence about any new fund until burden-sharing and the modus operandi of the support group were spelled out;

(o) The independent expert might explain how the development compact would contribute to mainstreaming all human rights in all aid programmes, as well as in the development policies of recipient countries;

(p) The independent expert might clarify what would happen when a country that had entered into a development compact violated human rights during the implementation phase;

(q) The independent expert might clarify whether monitoring mechanisms that could review development compacts already existed;

(r) The independent expert might explain whether international obligations relating to the right to development would be judiciable;

(s) The independent expert might identify countries which would be interested in undertaking a development compact pilot project;

(t) The independent expert could explain how the development compacts related to existing development processes such as the Common Country Assessment (CCA)/United Nations Development Assistance Framework (UNDAF), the PRSPs and others;

(u) The independent expert might explain how developing countries would be involved in decision-making processes connected with the compacts;

(v) The independent expert might consider how existing funds for development could be more effectively employed as a result of taking a right to development approach;

(w) The independent expert might explain how his approach to the right through development compacts could go beyond the donor-recipient relationship and tackle the issue of creating a favourable international environment for development;

(x) The independent expert might note that several funds for development already existed in the Arab world and that he could engage with the heads of those funds to get more experience relevant to his development compact.

52. While generally welcoming the fourth report of the independent expert, one participant raised the following specific points concerning the report:

(a) The right to development is different to human rights in development. The concept of development as a process that brings about positive changes within a country does not equate with the implementation of the right to development. The latter includes an important international dimension. Consequently, the right to development should not be confused with human rights in development.

(b) The eradication of poverty does not equate with the implementation of the right to development.

(c) The development compact should not be confused with the implementation of the right to development. This is not to say that the elaboration of the development compacts is not important, but the development compacts do not capture the international dimension of the right to development. If the international dimension of the right to development is lost, the right to development risks becoming the implementation of development programmes within a human rights framework.

(d) International cooperation does not equate automatically with the international dimension of the right to development. The international dimension of the right to development has two aspects: the creation of an enabling international environment for the implementation of the right; and development assistance, either bilateral or multilateral. Development assistance cannot replace multilateral action to establish a just and democratic international order.

(e) The distinguishing element of the right to development, therefore, is an enabling international environment and a just and equitable international system that is favourable to development. Greater attention needs to be given to this element of the right to development.

(f) To this end, the participant urged the independent expert to submit the preliminary study requested of him by the Commission on Human Rights in its resolution 2001/9. Further, the participant urged international organizations to inform the Working Group of their work concerning a just and equitable international environment for development, including work on obstacles to the realization of this element of the right to development.

53. The representative of the World Bank expressed appreciation of the independent expert's willingness to work with the Bank. In the view of the Bank, certain questions arose concerning the right to development, including:

(a) What was the structural shift that such an approach would entail?

(b) What were the criteria by which to measure whether the right to development was being fulfilled or not?

(c) Could rights-based approaches be organizing principles for Governments, institutions and civil society?

(d) With regard to the development compacts, would the OECD DAC be exposed to criticism?

(e) Why were additional funds needed?

54. The representative of the World Bank said that if the right to development was to be considered as an overreaching right, there had to be coordination between the special procedures, especially those dealing with economic, social and cultural rights.

55. The independent expert responded to the comments and queries concerning his fourth report. First, he responded to the query of some participants concerning his notion of the right to development as a right to a particular process of development, explaining that that notion was drawn directly from the preamble to the Declaration on the Right to Development. The independent expert said that viewing the right to development in that way did not mean denying that the right was also central to various outcomes, in particular to the enjoyment of the rights in the two Covenants. But those outcomes, under the right to development, rely on respect for a particular process of development. Second, the independent expert clarified his understanding of the obligations linked to the right to development. Those obligations could be both perfect - where the State had to refrain from doing something - or imperfect - where the State must take a course of action in order to fulfil a right. Development assistance, for example, came within the independent expert's notion of an imperfect obligation. It was for the Working Group to define what was required to fulfil those imperfect obligations.

56. Third, the independent expert highlighted the fact that human rights "trumped" all policies. Organizations could not argue that they could take actions without taking heed of the human rights obligations of their members. Fourth, the independent expert said that he had provided the Working Group with one particular model for the implementation of the right to development, but pointed out that the Working Group was not restricted to this model. Fifth, he stressed the importance of the rights-based approach to development; by that he meant in particular that development included participation, accountability, non-discrimination, empowerment and democracy in its fullest meaning and that the rights-based approach should be the cornerstone of international cooperation.

57. Sixth, the independent expert explained that he had proposed, through his development compacts, a mechanism to ensure mutuality of obligations between donors and recipients of development assistance. He stated that that would require some form of support group and that it would be useful to look at different models for such a mechanism. While there were links between the development compact and the PRSP process, he highlighted the fact that the PRSPs did not make the link with human rights. He added that, while he had proposed the OECD DAC as the leader of the support group, he would be interested to hear of other options.

58. The independent expert concluded by highlighting two matters. First, he said that it would be important for the Commission to emphasize in its next resolution on human rights and development that all intergovernmental organizations were bound by human rights law. Second, the independent expert argued that there was a need for a follow-up mechanism to the Working Group that could ensure that all intergovernmental organizations acted consistently in implementing their programmes and were working to implement the right to development.

59. The Chairperson-Rapporteur closed the debate on the report of the independent expert by highlighting the fact that the independent expert, in his reports, had reminded the Working Group that development had a human face - a fact that tended to be forgotten. He had also recognized the importance of eradicating hunger as a fundamental element of human development. The Chairperson-Rapporteur also noted that the independent expert, on the basis of experience, had proposed an approach that should carry the Working Group forward in its thinking on how to achieve progress. On reciprocal obligations under the right to development, the Chairperson-Rapporteur noted that ideas could be fine-tuned. However the commitments made at world conferences such as the United Nations Conferences on the Least Developed Countries or the forthcoming International Conference on Financing for Development provided a framework for arriving at mutual obligations. On the development of follow-up mechanisms, the Chairperson-Rapporteur encouraged the Working Group not to be impulsive. The Working Group could consider the possibility of an intersessional Working Group to discuss and advance the issue further.

V. CONSIDERATION OF CONCRETE ACTIONS TOWARDS REALIZATION OF THE RIGHT TO DEVELOPMENT AT THE NATIONAL LEVEL

60. The Chairperson-Rapporteur recalled that, the previous year, the Working Group had discussed the following items concerning national implementation of the right to development: (a) national Governments have the primary responsibility for actions to implement the right to

development; (b) the need for an enabling legal, political, economic and social environment for the realization of the right, including democratic and good governance practices and national human rights institutions; (c) measures to combat corruption; (d) the crucial role of independent media in consolidating democracy; (e) women as a central concern in the realization of the right to development; and (f) the need for special protection of minority and vulnerable groups, including nomadic persons. The Chairperson-Rapporteur noted that those issues were again on the Working Group's agenda and the Group should not restate its positions but try to give practical recommendations concerning some of the problems that had been identified. He recalled that the 1503 procedure received hundreds of complaints concerning all States and on a range of issues which mirrored the difficulties of the right to development. Therefore, the Working Group should not finger point or try to give lessons, but should examine how to remedy the current deficit in regard to the right to development and should look at the modalities for achieving progress.

61. The independent expert said that an entire section of his report was dedicated to national actions. Along with international cooperation, national actions were at the heart of the right to development approach. There was a difference between individual rights and the right to development. When individual rights were put together, a programme was needed to realize them over time, taking into account all existing constraints. All rights were dependent on sustained resource growth and development itself, so debt and other factors became a part of the right to development programme. Development was the essence of the right, but poverty reduction from a rights approach could be a priority. Although rights to education, food and health could be components of a poverty reduction programme, some countries might consider other rights to have a higher priority. Participation, accountability, empowerment and non-discrimination were crucial to any programme. National policies were important, but in an interdependent world, international cooperation was also necessary, as were private actors and institutions.

62. Several delegations stated that all human rights were indivisible and the right to development did not take primacy over other human rights. National Governments had a key role and responsibility in realizing the right to development. The human person was the centre of development and States had the primary responsibility to take action to allow citizens to take political and economic initiatives to better their lives. Both international and national actions were needed to realize the right to development. External assistance should not be taken for granted and the spirit of self-help and self-reliance should prevail. International assistance and debt relief must be combined with economic reform and good governance practices at the national level to achieve the right to development. Realization of the right to development required a long-term perspective and a certain amount of pragmatism.

63. Participants considered that Governments must take action to promote: (a) sound monetary and fiscal policies; (b) competition and market-oriented mechanisms; (c) an entrepreneurial culture in which the rule of law, enforceable contracts, and stable and transparent government administrations existed; (d) the fight against corruption; and (e) democracy and individual freedoms and liberties. Relevant institutions and efficient administration were needed and human resources needed to be fortified. Women, civil society, NGOs, the media and

education were also crucial elements in realizing the right to development. Human rights treaties should be ratified without reservations and implemented, and States should submit to the monitoring process of the treaty bodies. Minorities and vulnerable groups needed to be protected, the poor needed to be assisted, and action was needed to combat discrimination and racism. Regional initiatives were important, as was building capacity for developing country nationals to participate in international forums. Further, information and communication technology was crucial to the enjoyment of the right to development. Another participant believed that economic development could not exist without market-oriented policies and the rule of law and good governance. Freedom of expression, association and political participation were considered essential. Legal systems had to ensure the equitable distribution of resources and public and private expenditure for military purposes should be redirected towards social purposes.

64. Several delegations stated that the right to development was a process that required action at both the national and international levels. Two issues must be kept in mind: first, States had the right to choose their own form of development based on national realities; second, States had the right to participate in decision-making at the international level that affected development at the national level. One participant believed that it would be wrong to overemphasize democracy and good governance, since poor countries were burdened by a history of exploitation, compounded by current international exploitation. The recent tendency had been to point to liberal values and market economies as the best models for development, but in reality certain other models had also proved successful. Some participants considered that markets needed to be managed and safety nets established. A State could not relinquish its primary responsibility to realize the right to development, but in a globalized world the duty could not be exclusively national. In certain cases, a State could have the best national policies, but they could be circumscribed by international trade, financial or political policies or occurrences. Corruption, for example, had an international dimension. The liberalization of financial transactions had led to significant financial resources leaving developing countries and there was a need to trace, recover and return those resources to the rightful owners. Appropriate policies should be formulated accordingly.

65. One participant said that the implementation of the right to development would require a revolution in values. Several participants identified the goals and programmes of action agreed at various world conferences as one of the vehicles for bringing about such change. Another delegate raised the question of what the difference was between the right to development and human development. One participant underlined the importance of gender equality for the enjoyment of the right to development. In that sense, women must have access not only to the benefits of development, but also to decision-making processes. Courts and national human rights institutions were vehicles to achieve gender equality. Similarly, advancing women in decision-making, including through politics, providing women with access to credit, training women in business management, improving working conditions for women and helping women with HIV/AIDS were ways in which the participant's Government was helping women through its development programming. Another participant identified access to land, paid services and education as ways to improve the enjoyment of the right to development of women. Similarly,

ratification of the International Convention on the Elimination of Discrimination against Women and its Optional Protocol would also be a means of advancing women's right to development. The participant encouraged the independent expert to include ratification of that treaty as an indicator for enjoyment of the right to development.

66. One participant, on behalf also of several others, noted that their countries had made poverty eradication the central focus of their development policy. Poverty was a multi-faceted problem that required an equally multi-faceted approach with economic, political, social, environmental and institutional dimensions. The participant said that the countries in question supported new regional initiatives that might be conducive to ensuring national ownership of development programming while promoting partnership and accountability for development, and gave NEPAD as an example. The participant highlighted certain aspects of NEPAD, including the objective of halting the marginalization of Africa in the globalization process and promoting the role of women in development; the need not only to promote growth, but also other factors such as infrastructure, capital accumulation, human capital, institutions, structural diversification, competitiveness, health and good stewardship of the environment; the "peer review" process to monitor the implementation of NEPAD; and State capacity building in such areas as institutional infrastructure, human resource development, public finance, financial regulation and supervision, basic education, public administration, social and gender sensitive budget policies, early warning and crisis prevention.

67. The same participant, on behalf of several participants, also said that the whole concept of good governance was underpinned by free and independent media. Further, the participant pointed out the positive relationship between the right to development and women's education, women's participation in employment, their income levels and child-bearing/rearing activities. Without women's active participation in all activities in the community, it was illusory to talk about the full realization of the right to development. The participant argued that States should take firm legislative and other action to accord women equality with men before the law, in terms of legal standing and capacity; access to land, credit, property and inheritance; equal and fair conditions within the family; effective protection against violence and discrimination; and the right to vote. Children's rights, of boys and girls alike, should be equally integrated into all policies and programmes so as to ensure their protection and promotion, especially in matters such as health, education and the full development of their capacities. Finally, the participant noted that HIV/AIDS posed a real threat to all efforts to achieve sustainable human development. National responses to HIV/AIDS should be designed within the context of universal human rights standards, norms and principles, including the right to development.

68. The representative of the World Bank said that it was important to consider what the thinking on poverty had been over the previous 50 years. At the beginning of that period, poverty was viewed from a trickle-down standpoint, with major investments being made in infrastructure, hydroelectricity and other projects. In the 1960s and 1970s, rural development and low-cost provision of services in rural areas were the priority. Today, it was known that poor people had to be at the centre of the design and implementation of their futures. Listening to the poor, allowing them to participate and empowering them was important. The representative of the World Bank referred to the series Voices of the Poor, for which over 60,000 poor people had been interviewed to get their views. In Sub-Saharan Africa and

South-East Asia, more than 40 per cent of people lived on less than one dollar a day. The question was how could poor people have a voice in poverty reduction, how could they participate and how could their access to knowledge be strengthened. Certain strategic choices needed to be made, including ensuring access to justice, addressing discrimination against women, youth and elders, and looking at public expenditures. Additionally, the human dimension was needed. The discourse should be changed from regulation and obligation to looking at the identity of people and their self-realization. Both economics and politics played major roles in the spectrum of considerations. Lastly, there needed to be a narrow focus because listing too many issues was a formula for inaction.

69. One NGO representative expressed appreciation that the independent expert considered education as one of the three priorities of the right to development. The confusion between development and the right to development explained the delay in the promotion and the implementation of the right, and that might happen as regarded education and the right to education. Education alone, without reference to human rights, was more restrictive and would, for example, guarantee access for all to primary education, which was enough to fight illiteracy but not enough to promote development. The methods of education and development must be reviewed. The right to education empowered, formed the basis for self-determination and provided for political involvement. Another NGO representative emphasized the important role that women played in development, but stressed particular obstacles to the enjoyment by women of that right, in particular their vulnerability to poverty, HIV, violence against women, culturally harmful treatment of women and their exclusion from the political sphere in spite of their proven contribution in the private sphere. The NGO representative stressed that politicians need to create a favourable environment for women to enjoy their right to development, including through enhancing women's skills and knowledge, assisting their role in large and medium enterprises, and providing resources to assist the development of women. Another NGO representative stressed the importance of not neglecting the right to development of aging people.

70. The Chairperson-Rapporteur, in concluding the discussion, inquired how an environment could be created that was conducive to the promotion and protection of human rights. While noting that there was no controversy on the central role of the State in promoting and protecting the right to development, he stated that no country was an island and national policies and actions were intertwined with international ones. He highlighted the fact that, while the State had a central role to play in realizing the right to development, so too did citizens. The Chairperson-Rapporteur also referred to the need to ensure peace and security and to combat organized crime, including transnational crime.

VI. STRENGTHENING THE ROLE OF OHCHR IN THE PROMOTION AND PROTECTION OF THE RIGHT TO DEVELOPMENT

71. The Chairperson-Rapporteur introduced the item by recalling that the current Working Group was the third since the establishment of the post of High Commissioner for Human Rights in 1993. The mandate of the High Commissioner made specific reference to the right to development. According to the mandate of the current Working Group, the High Commissioner

was requested to provide reports setting out the activities of her Office, on the implementation of the various resolutions and on cooperation among international organizations on the right to development. The purpose of the discussion was therefore to see how the role of the Office could be strengthened in pursuit of the realization of the right to development.

72. The Chief of the Research and Right to Development Branch of the Office made a presentation on activities of the Office relevant to the programme of work of the Working Group. She referred to the report of the High Commissioner to the Commission on the right to development (E/CN.4/2002/27) and spoke of the activities referred to in and undertaken since that report. Under the heading "Substantive mandates from the Commission", she said that many of the activities mandated by the Commission were of direct relevance to the programme of the Working Group, including promoting good governance, the forthcoming seminar on democracy and human rights, the Secretary-General's reports on women's equal ownership of, access to, and control over land and on access to medication, as well as reports on international trade and economic issues to the Commission and Sub-Commission.

73. Representatives of Governments and NGOs suggested possible further activities to strengthen the role of the Office in the promotion and protection of the right to development. Propositions generally fell under five headings: further research, substantive or empirical work, advocacy/coordination, work on right to development indicators and information on resources.

74. On further research, in a general sense, some participants requested a fuller explanation of the research capacity of the Office and some participants encouraged the Office to increase its support for the Working Group and the independent expert. Also, some participants noted their appreciation for the improved web site, which included a link on the right to development. The following specific proposals were made :

(a) The Office could provide the Working Group with a compilation of the conclusions and recommendations of the various workshops that considered aspects of the right to development;

(b) The Office could provide the Working Group with a survey of its technical assistance programmes relevant to the right to development, as well as their impact in the wider context of national programmes for development;

(c) The Office could inform the Working Group of its inputs into world conferences such as those at Monterrey and Johannesburg;

(d) The Office could inform the Working Group of practices on the ground of parts of the United Nations system relevant to the implementation of the right to development as a means of distinguishing the differences in practice between human rights and development, rights-based approaches to development and the right to development;

(e) The Office and other participating institutions could provide a thorough feedback of the Mainstreaming and Strengthening Assistance to United Nations Country Teams (MASCOT) and HURIST programmes;

(f) The Office could provide information on practical steps being taken as a result of the High Commissioner's visit to the World Bank in 2001;

(g) The Office could provide the Working Group with an outline of any strategies or roadmaps it had concerned with the implementation of the Millennium Declaration, trade issues or other activities relevant to the implementation of the right to development it might already be undertaking;

(h) The Office could provide more information on the work of treaty bodies, including on the elaboration of general comments and minimum core obligations;

(i) The Office could provide more information on its co-operation with the World Bank.

75. On substantive or empirical work, the following proposals were made:

(a) The Office could provide the Working Group with information on the follow-up to the various workshops and seminars that it had held concerning components of the right to development;

(b) An NGO representative suggested that the Office could provide models or guidelines on best practices of promoting the right to development of minority groups;

(c) The Office could undertake research on specific situations of implementing the right to development in developing countries, as well as the obstacles faced;

(d) The Office could undertake research on international cooperation and the right to development;

(e) The Office could consider the ways in which the right to development could be incorporated in its technical assistance programmes;

(f) The Office could provide information on the follow-up to world conferences relevant to the right to development;

(g) The Office could, together with the independent expert, develop a methodology for carrying out empirical studies on the right to development;

(h) The Office could provide information on the role of the treaty bodies in promoting the right to development.

76. On advocacy and cooperation, the following proposals were made:

(a) The Office should continue its efforts to encourage relevant bodies of the United Nations to promote the right to development, including through the United Nations Development Group training module and support to United Nations country teams;

(b) The Office could increase its participation in coordination mechanisms and initiatives within the United Nations system relevant to the realization of the right to development and the identification of obstacles to its realization;

(c) An NGO representative suggested that the Office should promote the right to development of minority groups in mainstreaming human rights throughout the United Nations system;

(d) An NGO representative suggested that the Office should be more active in promoting the right to development of minority groups through national human rights institutions;

(e) An NGO representative suggested that the Office should engage more with States on promoting and protecting the right to development of minority groups, including through ensuring respect for the right to development of those groups in the implementation of the Millennium Declaration goals.

77. On right to development indicators, one participant strongly supported the idea proposed by the High Commissioner in her Annual Appeal to include rights-sensitive indicators. Another participant, noting that the issue of indicators was controversial, did not believe that the Office should intervene in that area. Another participant stated that he was not sure as to the purpose of indicators on the right to development or how such indicators could be developed. The following proposals were made:

(a) The Office could examine ways in which it could contribute resolutely to the compilation of indicators and the integration of the "rights element" into socio-economic indicators;

(b) The Office, in any examination of right to development indicators, should take into account the cost that countries would incur in developing indicators;

(c) The Office, in developing right to development indicators, should include indicators on the international dimensions of the right to development.

78. On the issue of resources:

(a) Some participants called for greater clarity regarding the resources of the Office devoted to the right to development;

(b) One participant called for a breakdown of resources between regular budget and voluntary funds;

(c) One participant sought an increase in the number of staff working on the issue;

(d) Another participant stressed the need to use limited resources well and advised against the duplication of work being undertaken by other organizations;

(e) One participant requested information on the costs that treaty bodies would incur if they were to include monitoring of the implementation of the right to development in their monitoring functions.

79. In response to some of the issues raised, the representative of the Office stated that:

(a) Since the introduction of economic, social and cultural mandates in 1998, the Office has received only one new post from the regular budget;

(b) There had been reductions in the regular budget for staff travel and for consultants;

(c) HURIST now had a full time coordinator, which should strengthen the Office's contribution to the joint programme;

(d) At the World Bank, the High Commissioner had encouraged the World Bank to support the Permanent Forum on Indigenous Peoples and she had raised the issue of human rights and PRSPs;

(e) The recommendations of the workshop on globalization held in Kuala Lumpur would be forwarded to and considered at the Asia Pacific Workshop on Regional Cooperation for the Promotion and Protection of Human Rights to be held in Beirut in March 2002;

(f) On the issue of resources, the representative of the Office noted that she had to divide limited resources fairly among several mandates, including seven special rapporteurs and independent experts. She hoped, therefore, that any increase in the work of the Office on the right to development would also lead to an increase in resources.

80. The Chairperson-Rapporteur, in closing the discussion, made two observations. First, the Working Group, in strengthening the role of the Office, should avoid creating heavy mechanisms. Second, the Working Group should propose activities that went beyond research and focus on activities that had a stronger operational approach that would lead to a concerted and homogenous approach to development.

VII. CONSIDERATION OF A SUITABLE PERMANENT FOLLOW-UP MECHANISM FOR THE IMPLEMENTATION OF THE RIGHT TO DEVELOPMENT

81. The Chairperson-Rapporteur recalling that the previous year, the Working Group had made recommendations of a general nature, encouraged the Working Group to make clear recommendations on follow-up to the right to development.

82. One participant said that the first week of the Working Group's discussion had contributed significantly to the elaboration of the content of the right to development, especially regarding its international dimensions. The five principles mentioned repeatedly were of great

importance and would continue to inform the Working Group's discussions. Follow-up to the work of the existing Working Group would involve two aspects: implementation of the right to development and the mechanism to monitor the implementation of the right that should be put in place after the expiration of the independent expert's and the Working Group's mandates.

83. Several delegations expressed willingness to consider a range of options and to discuss the details of each of these options.

84. Several delegations thought it premature to determine the form of a follow-up mechanism without having considered the work and accomplishments of the independent expert and the Working Group. There was a need to look at the issues and challenges further and then proceed. There were many challenges and the voting in the Commission and the General Assembly showed that there were lingering disagreements that needed to be considered. They thought that the best approach would be to continue in the Working Group (by extending its mandate) with the help of the independent expert and to consider all possibilities. The independent expert had two more years of his mandate to run and the mandate of the Working Group should be extended to coincide. One delegation stated that the Working Group was relatively new compared to other mechanisms and, therefore, further discussions were needed both on the issues and the nature of an eventual follow-up mechanism. Several agreed that the independent expert's study on the impact of international issues on human rights was of great importance and should precede the establishment of a permanent follow-up mechanism. The Working Group should give guidance to the independent expert on the contours of the study and he should try to be specific and targeted.

85. In the course of the discussion, the following alternatives for a way forward were proposed:

(a) A global report of the Secretary-General on the right to development;

(b) A legally binding instrument on the right to development;

(c) A standing permanent follow-up mechanism to move beyond general discussions; any such mechanism would need to include States and agencies;

(d) An international, regional and national review of what is being done to implement the right to development first instead of a new follow-up mechanism;

(e) The improvement of the existing Working Group so that it could contribute to the work of the United Nations and other actors. The Group's agenda should be decided on early to facilitate the preparation of interventions.

86. Issues relevant to any future mechanism that were raised included:

(a) Several participants stated the need for the adoption of a consensus resolution by the Commission on Human Rights at its next session;

(b) South-South cooperation should be included in the discussion of a follow-up mechanism. North-South cooperation was central, but South-South cooperation could help to overcome the North-South dichotomy;

(c) What would be the relationship of a right to development follow-up mechanism with the treaty bodies, since the treaty bodies dealt with a range of issues that overlapped with the right to development?

(d) How would compliance with the mechanism be ensured?

(e) How would progress be measured, especially given the discussion on indicators?

(f) The Working Group would need to discuss resource constraints and prioritization of the OHCHR work programme, and whether such a mechanism would be useful to the international community;

(g) Regarding mainstreaming of human rights in the WTO, World Intellectual Property Organization (WIPO) and international financial institutions through any follow-up mechanism, it would be more useful to help those organizations to internalize human rights concerns than impose it on them;

(h) Some participants believed that OHCHR should have a prominent role to play in follow-up; however, its role should be complementary to that of a permanent follow-up mechanism;

(i) An NGO representative suggested that any future follow-up mechanism could monitor how participation, empowerment and equity were being advanced;

(j) An NGO suggested that any future Working Group could see how the CDF and PRSPs could be strengthened.

87. One participant, on behalf also of several other participants, stressed that OHCHR, the Working Group and the independent expert were already a form of follow-up mechanism.

88. The Chairperson-Rapporteur stated that international cooperation went beyond the donor-recipient relationship and entailed a reciprocal commitment and obligation on the part of States. He cited several instances of South-South cooperation and noted that the Working Group should take those models and move forward with them. Additionally, North-South relations had progressed and that should be taken into account by the Working Group. On follow-up, he noted that the independent expert could not continue without the Working Group since there was a logical link between the two mechanisms. Secondly, OHCHR was in itself a permanent follow-up mechanism for all human rights. Further all the special procedures should be encouraged to follow up on the right to development. The Chairperson-Rapporteur recalled that coherence and coordination were of central importance to the United Nations and its work.

VIII. CONCLUSIONS AND RECOMMENDATIONS

89. Participants in the Working Group negotiated and agreed upon the conclusions contained in annex II to the present report during the second week of the session. The Working Group reconvened for its final meeting in the afternoon of Friday, 8 March, when it discussed four outstanding paragraphs of the conclusions. Those paragraphs were adopted by consensus. However, one delegation expressed difficulties in joining the consensus on one paragraph at that moment and asked to be allowed to consult its capital on that paragraph. After consultation with the members of the Working Group and with their agreement, the Chair acceded to the above-mentioned request, provided that the delegation concerned would advise the Chair on its final position regarding the paragraph before the presentation of the report of the Working Group to the Commission on Human Rights at its fifty-eighth session. Following this discussion, representatives of the regional groups made closing remarks.

Annex I

LIST OF DOCUMENTS

Symbol	Title
E/CN.4/2002/WG.18/1	Provisional agenda
E/CN.4/2002/WG.18/2 and Add. 1	Fourth report of the independent expert on the right to development
E/CN.4/2002/WG.18/3	Background note by the secretariat
E/CN.4/2002/WG.18/4	Programme of work
E/CN.4/2002/27	Report of the High Commissioner for Human Rights on the right to development
A/56/256	Report of the Secretary-General on the right to development
E/CN.4/2001/WG.18/CRP.12	Information supplied by the United Nations Population Fund
E/CN.4/2001/WG.18/CRP.13	Information supplied by the Government of Mexico
E/CN.4/2001/WG.18/CRP.14	Information supplied by the Government of Oman
E/CN.4/2001/WG.18/CRP.15	Information supplied by Europe-Third World Centre and the American Association of Jurists
E/CN.4/2002/WG.18/CRP.1	Information supplied by the Government of Thailand
E/CN.4/2002/WG.18/CRP.2	Information supplied by the Government of Iraq
E/CN.4/2002/WG.18/CRP.3	Information supplied by the Government of Bolivia
E/CN.4/2001/WG.18/CRP.4	G-77/South Summit document
E/CN.4/2001/WG.18/CRP.5	Draft report of the third session of the open-ended Working Group on the Right to Development

Annex II

CONCLUSIONS ADOPTED AT THE THIRD SESSION OF THE OPEN-ENDED WORKING GROUP ON THE RIGHT TO DEVELOPMENT

1. The third session of the open-ended Working Group on the Right to Development took place from 25 February to 8 March 2002 under the Chairmanship of Ambassador Mohamed-Salah Dembri of Algeria.

2. It may be recalled that the Commission on Human Rights at its fifty-fourth session decided to establish a working group with a mandate:

(a) To monitor and review progress made in the promotion and implementation of the right to development as elaborated in the Declaration on the Right to Development, at the national and international levels, providing recommendations thereon and further analysing obstacles to its full enjoyment, focusing each year on specific commitments in the Declaration;

(b) To review reports and any other information submitted by States, United Nations agencies, other relevant international organizations and non-governmental organizations on the relationship between their activities and the right to development;

(c) To present for the consideration of the Commission on Human Rights a sessional report on its deliberations, including, inter alia, advice to the Office of the High Commissioner for Human Rights with regard to the implementation of the right to development, and suggesting possible programmes of technical assistance at the request of interested countries, with the aim of promoting the implementation of the right to development.

3. At its fifty-seventh session, the Commission on Human Rights renewed the mandate of the Working Group for a further period of one year and the mandate of the independent expert for another three years.

4. The work programme of the third session was adopted by consensus following informal consultations conducted by the Chairperson-Rapporteur of the open-ended Working Group.

5. The third session of the Working Group took place following major international conferences and meetings relevant to the right to development. These included the Third United Nations Conference on the Least Developed Countries (Brussels, 14-20 May 2001), the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (Durban, South Africa, 31 August-7 September 2001) and the Fourth Ministerial Conference of the World Trade Organization (Doha, 9-14 November 2001). The Working Group was also cognizant of the forthcoming International Conference on Financing for Development to be held in Monterrey, Mexico, from 18 to 22 March 2002 and the World Summit on Sustainable Development to be held in Johannesburg, South Africa from 26 August to 4 September 2002.

6. Given the direct relevance of these meetings and international conferences to the Working Group, it was expected that relevant United Nations funds and agencies and other international organizations should have informed the Working Group of developments taking place in their sphere of activities with implications for the implementation of the right to development.

7. In the above context, the Working Group welcomes the deepening dialogue with international institutions such as, the World Bank, the IMF, FAO, as well as participation by UNESCO, UNAIDS, UNCTAD, ILO and UNDP. However, the absence of other important international organizations, relevant United Nations agencies, funds and programmes, despite the formal invitation extended to them, both by the Chairperson and the Office of the High Commissioner for Human Rights (OHCHR), is a source of concern to the Working Group. The Working Group looks forward to the meaningful contribution of all international organizations concerned and encourages their participation and contribution. The Working Group also appreciated the participation of members of civil society through certain NGOs and encourages their participation in larger numbers in future years.

8. Based on the discussions and a frank and interactive debate during the two-week session, the Working Group agreed to adopt the following conclusions and recommendations.

International dimension

9. The Working Group reaffirms the need for an international environment which is conducive to the realization of the right to development.

10. The Working Group reaffirms the critical importance of identifying and analysing obstacles impeding the full realization of the right to development at both the national and international levels. While recognizing that promotion and protection of human rights, including the right to development, rests with States, as established in article 3 of the Declaration on the Right to Development, the Working Group further reaffirms the inextricable link between the two.

11. In this regard, the Working Group recognizes the need for effective implementation and fulfilment of internationally agreed targets adopted by consensus at various international conferences and summits, with particular emphasis on those contained in the Millennium Declaration, within the agreed time frames.

12. The work programme for the current session of the Group, adopted by consensus and contained in document E/CN.4/2002/WG.18/4, reflected the international economic and financial issues that deserved particular attention by the Working Group, such as international trade, access to technology, good governance and equity at the international level, and the debt burden, in order to consider and evaluate their impact on the enjoyment of human rights. In this regard, the Working Group had a useful exchange of views on these issues and looks forward to the preliminary study, as requested by the Commission on Human Rights in resolution 2001/9, for consideration by the Working Group at its next session.

13. While recognizing the importance of the aforementioned study to further the discussion of international issues, the Working Group was determined to move forward with a view to providing guidance to the independent expert in formulating the study and also to discussing major developments that have taken place since the last session of the Working Group.

14. On the basis of the interactive debate on these international issues and on the need for mainstreaming the right to development, the Working Group underlines that in relation to the international economic, commercial and financial spheres, core principles such as equality, equity, non-discrimination, transparency, accountability, participation and international cooperation, including partnership and commitments, are important for the realization of the right to development.

(a) Globalization offers opportunities and challenges. However, the process of globalization remains deficient in achieving the objective of integrating all countries in a globalized world. Many developing countries have been marginalized and others risk marginalization. If the process of globalization is to be made fully inclusive and equitable, there is a strong need for policies and measures, at the national and global levels alike, to respond to the challenges and the opportunities of globalization;

(b) The important link between international economic, commercial and financial spheres and the realization of the right to development. In this regard, the need for broadening the base of decision-making at the international level on issues of concern to development and to fill organizational gaps was highlighted, as was the strengthening of the United Nations system and the other multilateral institutions. The need to broaden and strengthen the participation of developing countries and economies in transition in international economic decision-making and norm-setting was also stressed;

(c) In the context of financing for development, and as already recognized in the relevant forums, there is value in exploring, in the appropriate forums, innovative sources of finance, provided that these sources do not unduly burden developing countries. In those forums, it was also agreed to study the results of the analysis requested from the Secretary-General, noting the proposal to use special drawings rights allocations for development purposes;

(d) Reaffirming the commitment to and urging developed countries that have not done so to make concrete efforts towards the targets of 0.7 per cent of their GNP for ODA to developing countries and 0.15-0.2 per cent of their GNP to LDCs, encouraging developing countries to build on progress achieved in ensuring that ODA is used effectively to help meet development goals and targets;

(e) In regard to the Fourth WTO Ministerial Conference held in Doha, there was a common understanding of the need to address market access for developing countries, especially in the areas under negotiation, including agriculture and textiles. Elements considered by the Working Group as essential links in making progress towards the effective implementation of the right to development were:

a desirable pace of meaningful trade liberalization, including in areas under negotiation; resolution of implementation issues; strengthening of special and differential treatment provisions; avoidance of new forms of protectionism; a regulatory framework appropriate for developing countries at the national level; and capacity-building of the developing countries. The Fourth WTO Ministerial Conference also included a mandate for WTO to review the Trade-Related Aspects of Intellectual Property Rights (TRIPS) and Trade-Related Investment Measures (TRIMS) Agreements which should effectively take into account the development dimension of these agreements and should be supported by the Working Group;

(f) Debt burden and debt servicing were recognized as important constraints on the ability of indebted countries to promote the right to development. The Working Group underlines the need for enhanced initiatives by creditors to alleviate the debt burden as a contribution to the realization of the right to development. In this context, actions taken by creditors to provide faster, deeper and broader debt relief for heavily indebted poor countries as useful steps towards solving serious debt problems were welcomed. Developing countries should use resources released by debt relief as well as other sources of development finance in a manner that fully takes into account the interests of the poor and poverty reduction strategies;

(g) The need to make available to all the benefits of new technologies, especially information and communication technologies, and the need to bridge the digital divide were evident. The Working Group welcomes the convening in Geneva in December 2003 and in Tunis in 2005 of the World Summit on the Information Society which will be important in addressing the problem of the digital divide.

15. While the Working Group agreed that the above elements and those that are enumerated below in other sections shall also be a part of the basis for a future work programme of the Group, it is important to underline that the Group cannot and does not see itself as a substitute for multilateral negotiations in areas where other international organizations are mandated to act. However, taking into account the consensus achieved at the World Conference on Human Rights in Vienna and the two International Covenants on Human Rights, the Working Group considers itself competent to send out a strong message in all areas where the existing system impacts adversely on the realization of the right to development for all. In doing so, the Working Group hopes that the concerned organizations will take all necessary steps to remedy the existing situation.

16. International cooperation is one of the international commitments stated in the Declaration on the Right to Development. International cooperation has various aspects and modalities. Among them, the Working Group would like to stress the importance of multilateral cooperation; however, other forms of cooperation, such as partnership, commitment and solidarity, including South-South cooperation, should be encouraged. South-South cooperation was recognized as one of the approaches to be taken in promoting and expanding international cooperation. In this context, the Working Group took note of several existing examples of such cooperation.

National dimension

17. It is stressed that the basic responsibility for the realization of all human rights lies with the State. The Working Group underlines that the promotion of the right to development in the national context hinges on the application and observance of core principles such as equality, participation, accountability, non-discrimination and international cooperation.

18. The Working Group reaffirms that States have the primary responsibility for their own economic and social development, and the role of national policies and development strategies cannot be overemphasized. The Working Group further reaffirms the necessity of establishing, at the national level, an enabling legal, political, economic and social environment for the realization of the right to development.

19. There is an increased understanding within the Working Group of possible approaches and elements for the promotion and realization of the right to development at the national level. These include:

(a) Poverty eradication

Eradication of poverty is a critical, though not the only, step in the promotion and realization of the right to development. The Working Group recognizes that poverty is a multifaceted problem which requires an equally multifaceted approach addressing economic, political, social, environmental and institutional dimensions on all levels, especially in the context of the Millennium Declaration goal of halving, by the year 2015, the proportion of the world's people whose income is less than one dollar a day and the proportion of people who suffer from hunger.

The Working Group also recognizes the relevant role being played by the World Bank and the IMF in the context of PRSPs, where applicable, one of the useful tools to achieve poverty eradication and development. At the same time, the Working Group also underlines that the international community is far from meeting the target date of 2015 for halving the number of people living in poverty. Particular emphasis was laid on the principle of international cooperation, including partnership and commitment, between developed and developing countries.

(b) The role of women

The Working Group recognizes the importance of the role and the rights of women and the application of a gender perspective as a cross-cutting issue in the process of realizing the right to development. It notes in particular the positive relationship between women's education and their equal participation in civil, political, economic, social and cultural activities of the community, and the promotion of the right to development.

(c) The rights of the child

The Working Group stressed the need for the integration in all policies and programmes of the rights of children, boys and girls alike, and for ensuring the protection and promotion of those rights, especially in areas relating to health, education and the full development of their capacities.

(d) HIV/AIDS and other communicable diseases

The Working Group recognized that measures must be taken at the national and international levels to fight HIV/AIDS and other communicable diseases, taking into account ongoing efforts and programmes.

(e) Good governance

The Working Group also recognized that good governance and the rule of law at the national level will assist all States to promote and protect human rights, including the right to development. The value of ongoing efforts by States to identify and strengthen good governance practices, including transparent, responsible, accountable and participatory government, that are responsive and appropriate to their needs and aspirations, including in the context of agreed partnership approaches to development, capacity-building and technical assistance, was agreed.

(f) Civil society

The Working Group also recognized the need at the national level for strong partnerships with civil society organizations, including the private sector, in pursuit of poverty eradication and development, as well as for good corporate governance.

(g) Corruption

Considerable emphasis was laid on the need to encourage action against corruption at the national and international levels, including the need for genuine political commitment on the part of national Governments through a firm legal framework. In this regard, the Working Group encouraged adhering to existing instruments dealing with corruption and supporting other ongoing international legal efforts.

The Working Group acknowledges the crucial duty of Governments to use, in a transparent and responsible manner, resources that may contribute to the realization of the right to development, whether from domestic or foreign sources.

(h) New Partnership for Africa's Development (NEPAD)

There was substantial discussion on the recently adopted NEPAD. The Working Group expresses support and appreciation for NEPAD as a development framework and a practical example which could be explored for the promotion of a rights-based approach

to development. In this context, the Working Group encouraged future consideration by the Working Group of national initiatives and programmes in the framework of NEPAD and any other similar initiatives.

20. The Working Group made considerable progress in identifying additional components of the realization of the right to development. These additional components include: institutional infrastructure; coherence and cooperation in policy and programme development; human resource development; public finance and administration; financial regulation and supervision; basic education; social- and gender-sensitive budget policies; rule of law and the judicial system; appropriate technological development and crisis prevention. In this context, the Working Group also noted the importance of technical assistance, capacity-building and information-sharing to assist developing countries in their efforts.

Consideration of the fourth report of the independent expert

21. The Working Group appreciates the work done by the independent expert on the right to development and had a thorough discussion of his fourth report, which contained elements of an "operational model" of his "development compact" proposal, as requested by the Commission in resolution 2001/9.

22. The Working Group agrees that there are areas in which clarification, especially in the context of linkages with existing mechanisms and ongoing bilateral programmes, is still needed. In this regard, the independent expert should seek guidance from the discussions that took place at the present session in order to refine his proposed development compact, taking into account activities within existing mechanisms in order to avoid duplication.

23. One issue which stood out during the discussion relates to the need to identify actors and Governments willing to take part in a pilot development compact project.

Strengthening the role of the Office of the High Commissioner for Human Rights in the promotion and protection of the right to development

24. The Working Group recognizes the fundamental role of OHCHR in the promotion and realization of the right to development. The Working Group takes note of the information on its activities provided by OHCHR in the course of the discussion on strengthening the role of the Office to promote the right to development.

25. Several questions were posed to representatives of OHCHR, such as clarification of the priorities in selecting its activities, the question of the human and financial resources, both for research and other activities, available for implementing its mandate regarding the right to development, assessment of and reporting on its activities (i.e. seminars and regional workshops) and their coordination, consultation and communication with other bodies of the United Nations system, such as the United Nations Development Group/United Nations Development Assistance Framework/Common Country Assessment and other United Nations funds and programmes, in the context of the right to development.

26. The Working Group recognizes that there is considerable scope for further improvement of the Office's activities in the area of the promotion and realization of the right to development, and to this end would encourage greater dialogue and cooperation between itself and OHCHR. This would assist the Working Group in formulating recommendations to the Commission on Human Rights on future work and activities, including research relating to the right to development.

Consideration of a suitable permanent follow-up mechanism for the implementation of the right to development

27. There is a divergence of views within the Working Group on a suitable permanent follow-up mechanism for the implementation of the right to development.

28. In that context, there is an understanding in the Working Group that all options, including those proposed at the current session of the Working Group and as contained in the Declaration on the Right to Development, remain open to further discussion at future sessions of the Working Group.

Recommendations

(a) The Working Group should extend an open invitation, through the High Commissioner for Human Rights, to all specialized agencies, United Nations funds and programmes, the international financial institutions and other relevant actors in order to encourage their active participation and expert contributions to the work of the Working Group.

(b) The Working Group commits itself to drafting the agenda for its next session as early as possible in order to contribute to the preparation of the work and to encourage meaningful participation by all.

(c) The Working Group recommends that the Commission on Human Rights consider the renewal of the Working Group's mandate for another two years.

(d) The Working Group agreed to discuss further the proposals for a suitable permanent follow-up mechanism for the implementation of the right to development.

(e) The Working Group recommends that the independent expert conduct an appraisal of country-specific studies relevant to the proposed operational model of his development compact. The independent expert could consider taking into account different national, regional or international frameworks, including NEPAD.

(f) The Working Group requests the independent expert to submit at the next session sof the Working Group the preliminary study on the impact of international issues on the enjoyment of the right to development, as mandated by the Commission on Human Rights in resolution 2001/9. In this context, the United Nations Secretary-General, OHCHR, United Nations specialized agencies, funds and programmes and other international organizations, including WTO and the Bretton Woods institutions, are requested to cooperate and extend all possible assistance to the independent expert.

Annex III

APPEAL BY NGOS AND SOCIAL MOVEMENTS TO THE WORKING GROUP ON THE RIGHT TO DEVELOPMENT

The declaration on the right to development is in danger!

We the undersigned:

- Reaffirm that "the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized";[a]

- Also reaffirm that "respect for the principle of equal rights and self-determination of peoples",[b] as well as "the principle of the sovereign equality"[c] of all Members of the United Nations implies "the exercise of their inalienable right to full sovereignty over all their natural wealth and resources";[d]

- Demand a democratic international order, based on democratic principles, allowing for the full participation of each country to partake in economic decision-making and to define trade policy at the international level;

- Also reaffirm that, "participation, if it is to be effective in mobilizing of human and natural resources and combating inequalities, discrimination, poverty and exclusion, must involve genuine ownership or control of productive resources such as land, financial capital and technology. Participation is also the principal means by which individuals and peoples collectively determine their needs and priorities, and ensure the protection and advancement of their rights and interests";[e]

- Urge the independent expert to focus on implementing the right to development, on the basis of the Declaration on the Right to Development, in accordance with the mandate entrusted by the Commission on Human Rights, specifically to "to enhance efforts to consider and evaluate the impact of international economic and financial issues on the enjoyment of human rights";[f]

- Urge the Working Group to focus, on one hand, on a follow-up mechanism on the implementation of the right to development and, on the other hand, on a mechanism introducing sanctions for violations to the right to development, and economic, social and cultural rights.

List of signatories

Asociación Pro Derechos Humanos de España (Spain)
Association internationale de techniciens, experts et chercheurs - AITEC (France)
AL SUR DEL SUR. Plataforma contra la Impunidad y por los Derechos Humanos (Spain)
Amandamaji ry (Finland)

American Association of Jurists - AAJ
Asamblea por los Derechos Humanos del Cono Sur (Chili)
Action populaire contre la mondialisation - APCM
Association pour le développement de la sériciculture (France)
Association Sainte-Catherine (France)
Attac Belgique
Attac Bienne (Switzerland)
Attac Bretagne (France)
Attac France
Attac Genève (Switzerland)
Attac Neuchâtel (Switzerland)
Attac Rhône (France)
Attac Savoie (France)
Attac Bellegarde-Pays de Gex (France)
Bangladesh Krishok Federation
Berne Declaration (Switzerland)
Colectivo de Solidaridad por la Justicia y Dignidad de los Pueblos
Comisión para la Defensa de los Derechos Humanos en Centroamerica - CODEHUCA
Comité pour l'annulation de la dette du tiers-monde - CADTM (Switzerland)
Comité pour l'annulation de la dette du tiers-monde - CADTM (France)
Comité pour les droits humains "Daniel Gillard" (Belgium)
Commission tiers monde de l'Eglise catholique - COTMEC (Switzerland)
World Confederation of Labour - WCL
Coordinadora Nacional de Organizaciones Campesinas - CNOC (Guatemala)
Entrée9 (France)
Europe Third World Centre - CETIM
Fédération des associations pour la défense et la promotion des droits de l'homme/
Federacion de Asociacones de Defensa y Promocion de los Derechos Humanos
Fonds de coopération au developpement - FCD - Solidarité socialiste (Belgium)
FoodFirst Information and Action Network - FIAN (France)
Federation of Indonesia Peasant Union - FSPI
Focus on the Global South (Thailand)
Fondation Ficat Barcelone (Spain)
Forum contre le racisme (Switzerland)
Forum du tiers monde (Senegal)
France Libertés-Fondation Danielle Mitterrand
General Arab Women Federation
Fundación Celestina Pérez de Almada (Paraguay)
Grandmothers for Peace (Finland)
Hijos por la Identidad y la Justicia contra el Olvido y el Silencio - HIJOS (Mexico)
Indian Movement "Tupaj Amaru"
Instituto de Derechos Humanos Pedro Arrupe (Spain)
International Alliance of Women - IAW (Australia)
International Federation of Rural Adult Catholic Movements - FIMARC
International League for the Rights and Liberation of Peoples - LIDLIP
Intervida
Jeunesses alternatives (Switzerland)

KongoNetzwerk (Germany)
Lucha contra la Pobreza y Protection del Medio Ambiente (Paraguay)
Movement for National Land Agricultural Reform (Sri Lanka)
North South XXI
OINGD CIVIMED Initiatives (France)
PACS - Instituto Politicas Alternativas para el Cono Sur (Brazil)
Pain pour le prochain (Switzerland)
Pax Romana
Plate-Forme haïtienne de plaidoyer pour un développement alternatif - PAPDA (Haiti)
Public Services International (France)
Red Solidaria por los Derechos Humanos - REDH (Uruguay)
Service, Peace and Justice in Latin America (France)
Sindicato de Profesores del Reino Unido "NATFHE" (United Kingdom)
Survie France
Syndicat interprofessionnel de travailleuses et travailleurs - SIT (Switzerland)
SWISSAID (Switzerland)
Swiss Coalition of Development Organisations (Switzerland)
Union des Syndicats Autonomes de Madagascar - USAM
Union of Arab Jurists
Via Campesina
VIVA IQUIQUE. Asamblea por los Derechos Humanos del Cono Sur (Chili)
Women against Nuclear Power (Finland)
Women for Peace (Finland)
Women's Global Network for Reproductive Rights - WGNRR
Women's International League for Peace and Freedom - WILPF
World Alliance of Young Men's Christian Associations - YMCA
World Movement of Mothers
Youth for Unity and Voluntary Action - YUVA (India)
Zone110 (Belgium)

Notes

[a] Declaration on the Right to Development, art. 1, para. 1.

[b] Charter of the United Nations, Art. 1, para. 2.

[c] Ibid., Art. 2, para. 1.

[d] Declaration on the Right to Development, art. 1, para. 2.

[e] See *The Realization of the Right to Development: Global Consultation on the Right to Development as a Human Right* (HR/PUB/91/2), United Nations, New York, 1991, para. 150.

[f] Resolution 2001/9, para. 21.

Annex IV

COMMENTS SUBMITTED BY THE UNITED STATES TO THE CONCLUSIONS ADOPTED AT THE THIRD SESSION OF THE OPEN-ENDED WORKING GROUP ON THE RIGHT TO DEVELOPMENT

1. The United States appreciates the efforts of the Working Group on the Right to Development at its third session, especially the efforts of the Chairperson-Rapporteur.

2. The conclusions represent a substantial advance over previous years and demonstrate increased coherence with development dialogues in other forms and in particular with this year's major international conference.

3. However, we would have preferred a document that more fully reflected the variety of viewpoints expressed during the discussion.

4. The United States has fundamental differences with the text's conclusions and recommendations and therefore must disassociate itself with the same. We note that there is still no consensus on the precise meaning of the right to development.

5. Nevertheless, the United States continues to support further discussion in the proper forums that address development and that would genuinely help States Members of the United Nations reach our shared goal of sustainable development.

6. As President Bush recently stated on the eve of the United Nations Conference on Financing for Development, good government is an essential condition of development. We would also want to underscore here the three broad standards that the President has outlined as necessary elements for successful development: ruling justly, investing in people, and encouraging economic freedom.